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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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03/11/2004

Rex W. Riley

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DONN K. HARMS

PATENT & TRADEMARK LAW CENTER

SUITE 100

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DEL MAR, CA 92014

EXAMINER

OLSON, MARGARET LINNEA

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/798,984

Applicant(s)

RILEY, REX W.

Examiner

Margaret L. Olson

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 11-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9, 10 and 15-22 is/are rejected.
- 7) ☒ Claim(s) 5-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 3, 4, 9, 10, 15, 16, 17, 18, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wyers (US 5,377,885). Wyers discloses a vehicle load support for engagement to a vehicle with an elongated frame member 12 with first side member 13 and second side member 13 (column 2, lines 25-29), and upper section with an engagement end shown near 42 (figure 1) and a lower section with an attachment end shown at 17. The attachment end 17 is adapted for rotational engagement with the rear of a vehicle in a mounted position (see figure 1, phantom lines) where the frame member may move from an elevated position shown in figure 1 to a lowered position where the upper section may contact the ground or cargo sitting on the ground (phantom lines, figure 1). Attachment 31 maintains frame member 12 in an elevated position, and mounts 44 and line 45 suspend cargo from the upper section of the frame member at bar 42. The upper section of the frame is rotationally engaged with the vehicle so that it may be moved adjacent to cargo on the ground adjacent to the

vehicle, then rotated back to and removably maintained in an elevated position with cargo suspended above ground engaged with the upper section (column 1, lines 33-52).

With respect to claim 2, the lower section of the frame member is in angled engagement with the upper section at a determined angle, as shown near 15 and 22 in figure 1 (column 2, lines 41-47). This angle imparts a vectored force comprising the weight of the frame member and cargo when the frame member is elevated and communicates it substantially toward the rear of the vehicle.

With respect to claim 3, the engagement end of the frame member as shown in figure 3 is substantially equidistant between two distal ends of the frame member at 15a in figure 1. The first and second side members 13 extend between the engagement end and the distal ends on their respective sides (column 2 lines 25-29). Each distal end is connected to bar 15 mounted for rotational engagement with the rear of the vehicle (figure 1).

With respect to claim 4, the engagement end of the frame member as shown in figure 3 is substantially equidistant between two distal ends of the frame member at 15a in figure 1. The first and second side members 13 extend between the engagement end and the distal ends on their respective sides (column 2 lines 25-29). Each distal end is connected to bar 15 mounted for rotational engagement with the rear of the vehicle (figure 1).

With respect to claim 9, support rod 31 maintains the frame in an elevated position and is mounted in communication with the vehicle at mount 33, and is

removably engageable with the frame member 12 at the second end by means of a bolt and nut assembly 34. (column 3, lines 36-50).

With respect to claim 10, support rod 31 maintains the frame in an elevated position and is mounted in communication with the vehicle at mount 33, and is removably engageable with the frame member 12 at the second end by means of a bolt and nut assembly 34. (column 3, lines 36-50).

With respect to claim 15, the upper section is separable from the lower section (column 3, lines 1-13).

With respect to claim 16, the upper section is separable from the lower section (column 3, lines 1-13).

With respect to claim 17, the upper section is separable from the lower section (column 3, lines 1-13).

With respect to claim 18, support brace 43 extends between the first and second side members 13 (figure 3; column 3, lines 56-58).

With respect to claim 19, support brace 43 extends between the first and second side members 13 (figure 3; column 3, lines 56-58).

With respect to claim 20, support brace 43 extends between the first and second side members 13 (figure 3; column 3, lines 56-58).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3782

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Wyers (US 5,377,885) in view of Poindexter (US 5,618,150). Wyers discloses the structure of claim 1, including a support 31 engaged at the first end to a mount in communication with the vehicle 33, and removably engageable at the second end 34 with the frame member. Wyers does not disclose a rigid support rod. Poindexter teaches a support rod 191 engaged at the first end to a mount 201 in communication with the vehicle (column 7, lines 12-19). The second end is engaged to the frame of the cargo support 170 by pin 195, which may be removed. It would have been obvious to one of ordinary skill in the art at the time of invention to include a support rod removably engaged to the frame of Wyers in order to firmly secure the cargo carrying frame member to the vehicle.

With respect to claim 10, Wyers discloses the structure of claim 2, including a support 31 engaged at the first end to a mount in communication with the vehicle 33, and removably engageable at the second end 34 with the frame member. Wyers does not disclose a rigid support rod. Poindexter teaches a support rod 191 engaged at the first end to a mount 201 in communication with the vehicle (column 7, lines 12-19). The second end is engaged to the frame of the cargo support 170 by pin 195, which may be removed. It would have been obvious to one of ordinary skill in the art at the time of invention to include a support rod removably engaged to the frame of Wyers in order to firmly secure the cargo carrying frame member to the vehicle.

3. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyers (US 5,377,885) in view of Jordening (US 4,437,599). Wyers discloses the structure of claim 1, but does not disclose an elongated flexible support strap with loops for suspending cargo. Jordening teaches a cargo carrier to be attached to a vehicle with an elongated flexible support strap 7 with a plurality of support loops formed in it for suspending cargo from the upper section of the frame of the carrier (figure 1; column 2, lines 22-29). It would have been obvious to one of ordinary skill in the art at the time of invention to include a flexible support strap with a plurality of support loops in it in order to secure items of different shapes and sizes to the carrier.

With respect to claim 22, Wyers discloses the structure of claim 2, but does not disclose an elongated flexible support strap with loops for suspending cargo. Jordening teaches a cargo carrier to be attached to a vehicle with an elongated flexible support strap 7 with a plurality of support loops formed in it for suspending cargo from the upper section of the frame of the carrier (figure 1; column 2, lines 22-29). It would have been obvious to one of ordinary skill in the art at the time of invention to include a flexible support strap with a plurality of support loops in it in order to secure items of different shapes and sizes to the carrier.

Allowable Subject Matter

4. Claims 5-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed 4/9/07 have been fully considered but they are not persuasive. The frame member 12 of Wyers is capable of being rotated, when it is placed on the bumper, to a position contacting cargo, which is of an undisclosed height and may be of any height, placed on the ground, or the ground itself. The upper frame sections moves rotationally with respect to the vehicle when it is first mounted, as shown in the solid and dashed lines of figure 1. Wyers discloses every aspect of the claimed device.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret L. Olson whose telephone number is (571) 272-9002. The examiner can normally be reached on MTWR, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mlo


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER